

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
DAVID AND DEANNA GRAY ZONE CHANGE REQUEST
ZONING MAP AMENDMENT REPORT (#FZC-13-05)
FEBRUARY 21, 2014**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by David and Deanna Gray for a zoning map amendment in the Bigfork Zoning District. The proposed amendment would change the zoning of the subject property from 'SAG-10 Suburban Agricultural' to 'SAG-5 Suburban Agricultural.'

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on March 12, 2014 in the 2nd Floor Conference Room of the Earl Bennett Building located at 1035 First Ave West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning map amendment. Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the Earl Bennett Building at 1035 First Avenue West, in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Flathead County Clerk and Records Office at 800 South Main Street in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Bigfork Land Use Advisory Committee

This space will contain an update regarding the February 27, 2014 Bigfork Land Use Advisory Committee review of the proposal.

B. Planning Board

This space will contain an update regarding the March 12, 2014 Flathead County Planning Board review of the proposal.

C. Commission

This space will contain an update regarding the Flathead County Commissioners review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

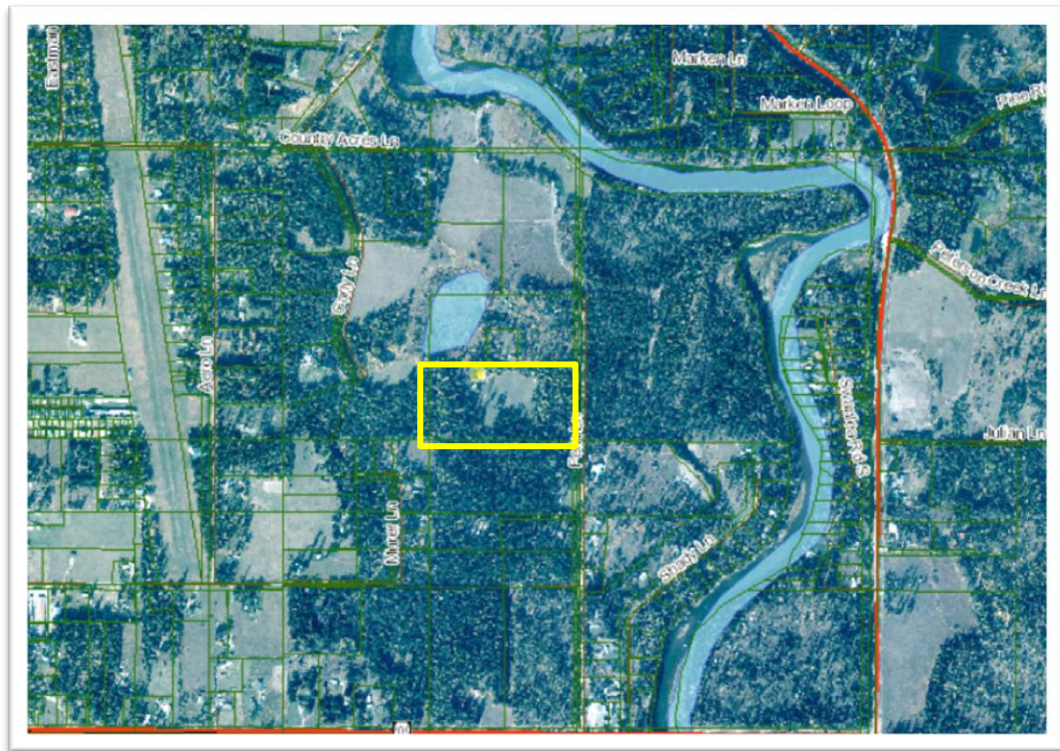
i. Owner/Applicants

David and Deanna Gray
358 Fern Lane
Bigfork, MT 59911

B. Subject Property Location and Legal Description

The subject property consists of one tract totaling 19.9 acres. The property is located on Fern Lane, approximately a half a mile north of Highway 209 and the county line as shown in Figure 1 below. The property can be legally described as Tract 2C in Section 34, Township 27 North, Range 19 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property outlined in yellow



C. Proposed Zoning Map Amendment

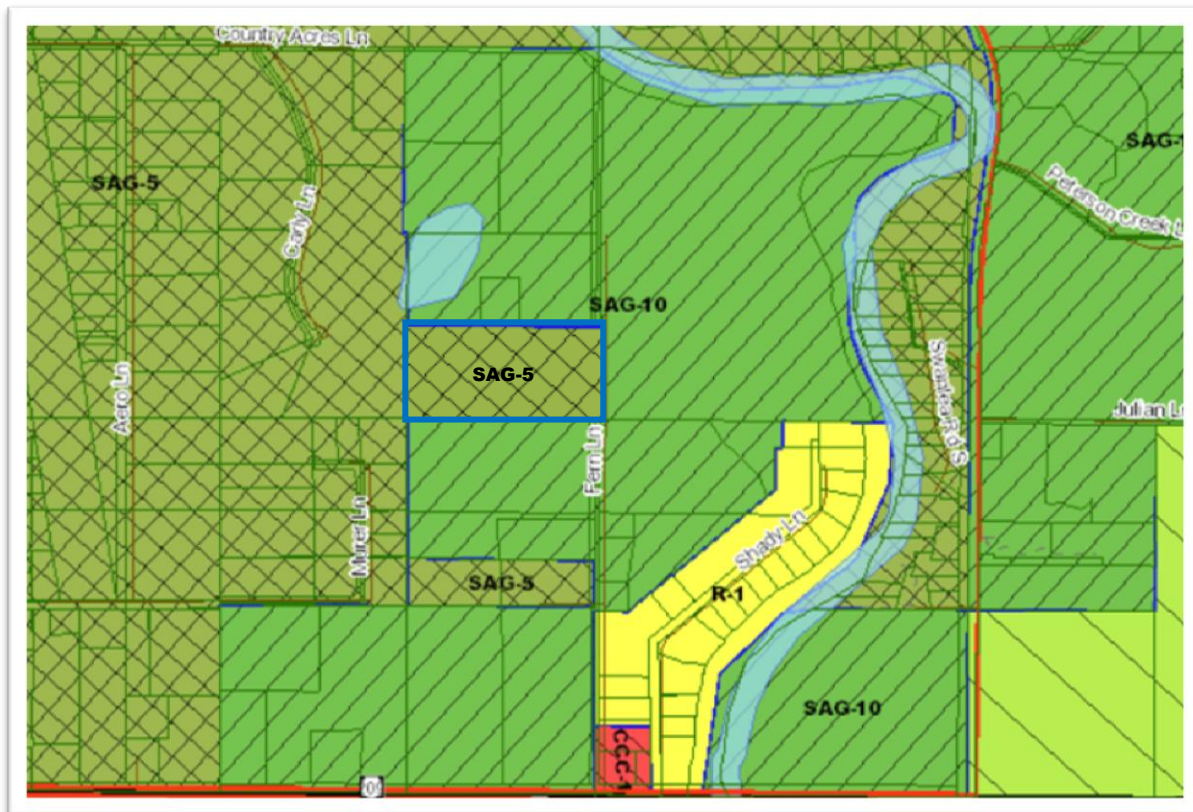
The subject property is located within the Bigfork Zoning District and is currently zoned ‘SAG-10 Suburban Agricultural’ (see Figure 2 below). The SAG-10 designation is defined in Section 3.07 of the Flathead County Zoning Regulations (FCZR) as, ‘*A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*’

As depicted in Figure 3 below, the applicant has requested the zoning map amendment to allow for ‘SAG-5 Suburban Agricultural’ zoning. The SAG-5 designation is defined in Section 3.08 FCZR as, ‘*A district to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate type residential development.*’

Figure 2: Current zoning applicable to subject property (highlighted in blue)



Figure 3: Proposed zoning on the subject property (highlighted in blue)



D. General Character of and Reason for Amendment

The property is located on relatively flat land that is heavily forested on the east and west sides of the property. The center of the subject property and around the existing dwelling has been cleared (as shown in Figure 5 below). The application states, “We have three boys and we would like to give each of them 5 acres.” The zoning map amendment is being requested because the applicant would like to subdivide the property. With the currently allowed 10 acre minimum lot area and the lot currently 19.9 acres the land owner is unable to further divide the property. The proposed SAG-5 zoning if approved would allow the applicant to potentially divide the tract into three lots with a minimum lot size of 5 acres.

Figure 4: Aerial view of subject property (outlined in yellow)



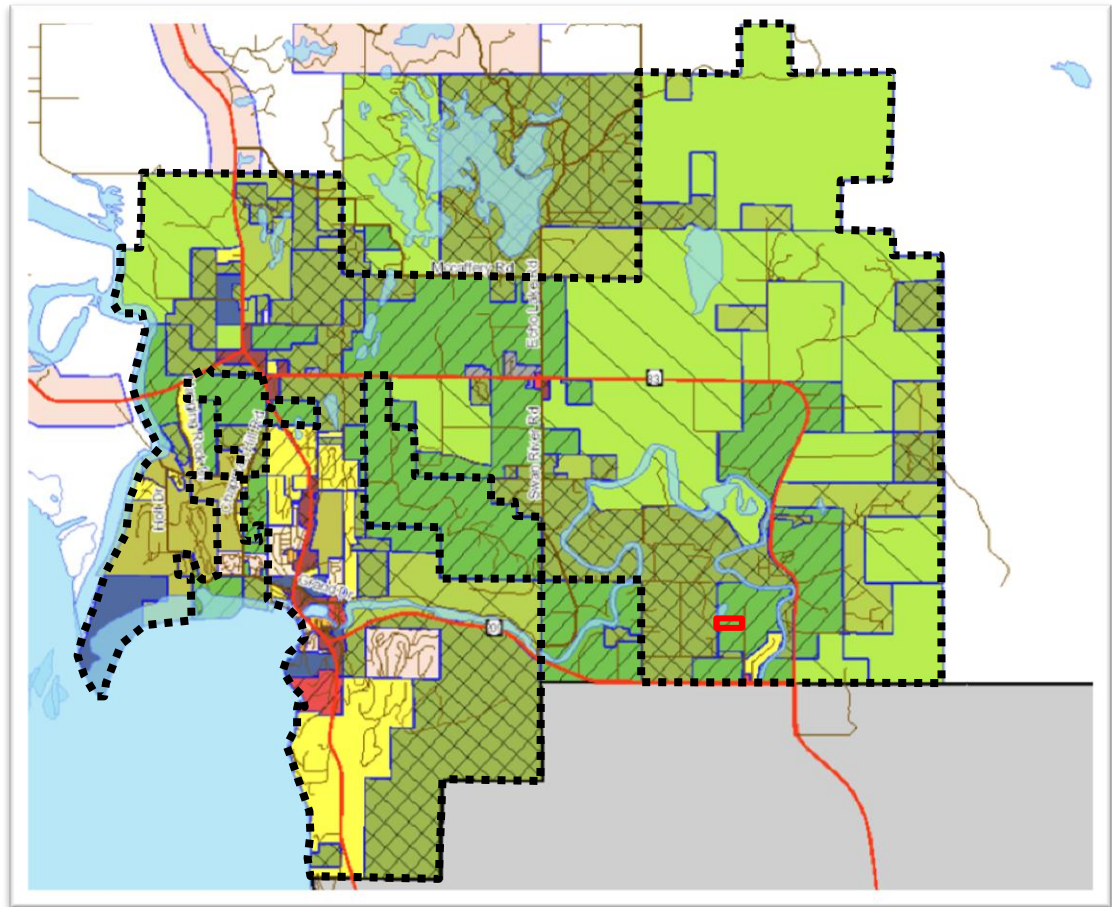
E. Adjacent Zoning and Character of the Overall Zoning District

The subject property is located within the Bigfork Zoning District and surrounded by suburban agricultural zoning (see Figure 2) with residential and business zones to the southeast of the subject property. The property is bordered on the north, south and east by ‘SAG-10 Suburban Agricultural’ and on the west by ‘SAG-5 Suburban Agricultural.’ Within a quarter mile of the property is ‘R-1 Suburban Residential’ zoning and within a half mile ‘CCC-1 Commercial Country Corner – Class 1’ zoning. The character of the area surrounding the property is rural residential and heavily forested, with limited commercial and public lands.

Lots surrounding the subject property vary in size from 0.7 acres all the way to 92 acres. Properties to the south and southwest range in size from 1.25 acres to 20.4 acres with the majority of lots around 5 acres in size. The property directly to east range is 92 acres and owned by the State of Montana. And to the southeast the properties are 0.7 to 15.8 acres, with the majority of the lots around 1.0 acre. On the

west and north sides of the subject property lots are approximately 5.0 acres to 42.2 acres in size and most are between 5.0 and 6.0 acres.

Figure 5: Bigfork Zoning District (outlined with dashed black line & subject property outlined in red)



When an application appears to have the potential for spot zoning, the “three part test” established by legal precedent in the case of *Little v. Board of County Commissioners* is reviewed specific to the requested map amendment. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application.

i. The Zoning Allows A Use That Differs Significantly From The Prevailing Use In The Area.

The intent of the existing ‘SAG-10 Suburban Agricultural’ zone is to provide and preserve agricultural functions and provide a buffer between urban and unlimited agricultural uses. The purpose of the proposed ‘SAG-5 Suburban Agricultural’ zone is to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural use.

The character of the overall zoning district is rural residential, heavily forested with limited agricultural and commercial uses. A majority of the surrounding properties are either vacant or utilized for single family. The proposed zoning

map amendment, if approved, would allow for uses that are typical of suburban agricultural zoning districts and similar to uses that are allowed under the existing zoning and existing zoning on surrounding properties. The properties directly to the west of the subject property are all currently zoned SAG-5. The proposed zoning would allow uses that do not differ from the prevailing uses in the area.

ii. The Zoning Applies To A Small Area Or Benefits A Small Number Of Separate Landowners.

Using standard ArcGIS software staff determined that the subject property is located within an SAG-10 zoning district approximately 338.4 acre in size. The area of the proposed zoning map amendment is 19.9 acres or 5.9 % of the existing SAG-10 district. West of the subject property is a SAG-5 zoning district which is approximately 1871.9 acres in size. The property is adjacent to a SAG-5 zoning classification and would enlarge it. So even though the property is only 19.9 acres in size and applies to one land owner the zone change would expand the existing SAG-5 designation currently west of the subject property

iii. The Zoning Is Designed To Benefit Only One Or A Few Landowners At The Expense Of The Surrounding Landowners Or The General Public And, Thus, Is In The Nature Of Special Legislation.

The subject property is currently owned by a single landowner however, the properties to the west are currently zoned SAG-5. This proposed zone change would allow for the same uses that are currently permitted and currently exist in the adjacent SAG-5 zoning and therefore the proposed zoning map amendment would not be at the expense of the surrounding landowners or the general public and thus is not special legislation.

In summary, all three criteria must be met for the application to potentially be considered spot zoning. The proposed zoning map amendment does not appear to be at risk of spot zoning, as it does not appear to meet all three of the criteria.

Finding #1: The proposed zoning map amendment from SAG-10 to SAG-5 does not appear to constitute spot zoning because the adjacent property to the west is similarly zoned SAG-5 and this proposed zone change would allow for the same uses that are currently permitted and currently exist in the adjacent SAG-5.

F. Public Services and Facilities

Sewer:	N/A
Water:	N/A
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Bigfork School District Bigfork High School District
Fire:	Ferndale Fire District
Police:	Flathead County Sheriff's Office

G. Criteria Used for Evaluation of Proposed Amendment

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are

found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

H. Compliance With Public Notice Requirements

Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on February 18, 2014. Legal notice of the Planning Board public hearing on this application was published in the February 23, 2014 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A.]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed change, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

I. Agency Referrals

Referrals were sent to the following agencies on January 10, 2014:

- Bonneville Power Administration
 - Reason: BPA has requested that anytime agency referrals are sent they receive a copy.
- Montana Fish, Wildlife, and Parks
 - Reason: Increased development as a result of the zoning map amendment may impact wildlife in the area.
- Flathead City-County Health Department; Environmental Health Services
 - Reason: Increased development as a result of the zoning map amendment may necessitate review by the Department.
- Flathead County Public Works/Flathead County Road Department
 - Reason: The zone change request has the potential to impact County infrastructure.
- Flathead County Sheriff
 - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing services.
- Flathead County Solid Waste
 - Reason: The type and amount of solid waste resulting from uses permitted within the proposed zone change could have an impact on existing public services.
- Flathead County Weeds and Parks Department
 - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing public services.
- Bigfork School District
 - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing school services.

- Ferndale Fire District
 - Reason: The subject property is located within the jurisdiction of the local fire district and increased development as a result of the zoning map amendment could impact the level of service available.

III. COMMENTS RECEIVED

A. Public Comments

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Bigfork Land Use Advisory Committee public hearing scheduled for February 27, 2014, the Planning Board public hearing scheduled for March 12, 2014 and/or the Commissioner's Public Hearing. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Montana Fish, Wildlife and Parks
 - Comment: "Montana Fish, Wildlife & Parks has no comment regarding the above zone change request." Letter received 1/15/14.
- Ferndale Volunteer Fire Department
 - Comment: "After meeting with property owner and inspecting the site, the following conditions will apply. 1. A minimum of a 12 foot wide driveway to future structures for emergency vehicle to make access. 2. A minimum of 2 inch numbers be visible from the road, in both directions to the responding emergency vehicles and personnel. 3. Property owners incorporate DNRCs and Flathead County Fire Safe Program and make and keep property Fire defensible. If the above conditions are met, the project will have NO negative impact on the Ferndale Fire Department." Letter dated 1/23/14. (Zoning map amendments are not conditioned, and is therefore between the landowner and the Fire Department)
- Flathead City-County Health Department
 - Comment: "The proposed development requires further sanitation review for the proposed division through the Sanitation in Subdivisions Act by Montana Department of Environmental Quality. On-site water and wastewater treatment and disposal are proposed. On-site systems would be reviewed for compliance with MTDEQ and Flathead County Sewage Treatment System Regulations. Solid waste and stormwater drainage must also be addressed through the Sanitation in Subdivision Act by the subdivision review process. Applicants will need to obtain the services of an environmental consultant for this process." Letter dated 1/21/14.

- Flathead County Solid Waste District
 - Comment: “The District views no negative impact with solid waste issues at this time. The District requests that all solid waste generated at the proposed location be hauled by a private licensed hauler. Allied Waste is the licensed (PSC) Public Service Commission licensed hauler in this area.” Letter dated 1/16/14.
- Flathead County Road & Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated 1/21/14.

IV. EVALUATION OF PROPOSED AMENDMENT

A. Build Out Analysis

Once a specific zoning designation is applied in a certain area, landowners have land uses that are allowed by-right. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those by-right uses. It is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

i. Current Zoning

The proposed zoning map amendment would change the zoning designation on the subject property from ‘SAG-10 Suburban Agricultural.’ SAG-10 is defined in Section 3.07.010 FCZR as, “*A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*” The following is a list of permitted uses in an SAG-10 zone:

1. Agricultural/horticultural/silvicultural use.
2. Cellular tower.
3. Class A and Class B manufactured home.
4. Cluster housing.
5. Dairy products processing, bottling, and distribution.
6. Day care home.
7. Dwelling, single-family.
8. Guest house.
9. Home occupation.
10. Homeowners park and beaches.
11. Nursery, landscaping materials.
12. Park and publicly owned recreational facility.
13. Produce stand.
14. Public transportation shelter station.
15. Public utility service installation.

16. Ranch employee housing.
17. Stable, riding academy, rodeo arena.

The following uses are listed as conditional uses in an SAG-10 zone. An asterisk designates conditional uses that may be reviewed administratively:

1. Airfield.
2. Aircraft hangars when in association with properties within or adjoining an airport/landing field.*
3. Animal hospital, veterinary clinic.
4. Bed and breakfast establishment.
5. Camp and retreat center.
6. Caretaker's facility.*
7. Cemetery, mausoleum, columbarium, crematorium.
8. Church and other place of worship.
9. Community center building operated by a non-profit agency.
10. Community residential facility.**
11. Contractor's storage yard.*
12. Dwelling, family hardship.*
13. Electrical distribution station.
14. Extractive industry.
15. Golf course.
16. Golf driving range.
17. Kennel, commercial.*
18. Manufactured home park.
19. Recreational facility, low-impact.
20. School, primary and secondary.
21. Temporary building or structure.*
22. Water and sewage treatment plant.
23. Water storage facility.

The bulk and dimensional standards under SAG-10 zoning requires a setback from the boundary line of 20 feet for the front, rear, side and side-corner yards for the principal structure. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner yards and 5 feet from the rear and side yards. There are also provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials.

The subject property totals 19.9 acres and the proposed SAG-10 zoning requires a minimum lot area of 10 acres. Under the current SAG-10 zoning no more lots could be created.

ii. Proposed Zoning

As previously stated, the applicant is proposing 'SAG-5 Suburban Agricultural' zoning. SAG-5 is defined in Section 3.08.010 FCZR as, '*A district to provide and preserve smaller agricultural functions and to provide a buffer between urban*

and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate type residential development.' The following is a list of permitted uses in an SAG-10 zone:

1. Agricultural/horticultural/silvicultural use.
2. Class A and Class B manufactured home.
3. Cluster housing.
4. Day care home.
5. Dwelling, single-family.
6. Guest house.
7. Home occupation.
8. Homeowners park and beaches.
9. Nursery, landscaping materials.
10. Park and publicly owned recreational facility.
11. Produce stand.
12. Public transportation shelter station.
13. Public utility service installation.

The following uses are listed as conditional uses in an SAG-5 zone. An asterisk designates conditional uses that may be reviewed administratively:

1. Airfield.
2. Aircraft hangars when in association with properties within or adjoining an airport/landing field.*
3. Animal hospital, veterinary clinic.
4. Bed and breakfast establishment.
5. Camp and retreat center.
6. Caretaker's facility.*
7. Cellular tower.
8. Cemetery, mausoleum, columbarium, crematorium.
9. Church and other place of worship.
10. Community center building operated by a non-profit agency.
11. Community residential facility.**
12. Contractor's storage yard.*
13. Dwelling, family hardship.*
14. Electrical distribution station.
15. Extractive industry.
16. Golf course.
17. Golf driving range.
18. Kennel, commercial.*
19. Manufactured home park.
20. Recreational facility, high-impact.
21. Recreational facility, low-impact.
22. Recreational Vehicle Park
23. School, primary and secondary.
24. Stable, riding academy, rodeo arena.
25. Temporary building or structure.*

- 26. Water and sewage treatment plant.
- 27. Water storage facility.

The bulk and dimensional standards under SAG-5 zoning requires a setback from the boundary line of 20 feet for the front, rear, side and side-corner yards for the principal structure. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner yards and 5 feet from the rear and side yards. The zoning designation also allows for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials.

The subject property totals 19.9 acres and the proposed SAG-5 zoning requires a minimum lot area of 5 acres. Under the proposed SAG-5 zoning 3 lots could be created, 2 more than what would be permitted in the current SAG-10 classification.

In summary, the requested zone change from SAG-10 to SAG-5 has the potential to increase density, by allowing two additional lots through subsequent divisions. The bulk and dimensional requirements are the same in SAG-10 and SAG-5 and the zoning map amendment would allow uses that are typical of zoning districts in the area and similar to uses allowed under the existing SAG-10 and neighboring agricultural and SAG-5 zoning.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

i. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R). Additionally the property is located within the Bigfork Neighborhood Plan, adopted on June 2, 2009 by the Flathead County Commissioners (Resolution #2208).

1. Flathead County Growth Policy

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Suburban Agricultural.’ The proposed Suburban Agricultural zoning classification is compatible with the current designation. Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, *“This map depicts areas of Flathead County that are legally designated for particular use. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plan. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning*

districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map.” Therefore, staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on policies, rather than maps in the document.

Following is a consideration of goals and policies which appear to be applicable to the proposed zone change, to determine if the proposal complies with the Growth Policy:

- ❖ **G.2** – *Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*
 - **P.3.5** – *Identify reasonable densities for remote, rural development that do not strain the provision of services or create a public health or safety hazard.*
- ❖ **G.4** – *Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility of land uses.*
 - The SAG-5 designation allows for agriculture and forestry and provides the land owner with more flexibility when it comes to a minimum lot area.
- ❖ **G.8** – *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.*
 - The SAG-5 designation would allow for densities of 1 dwelling units per 5 acres and would not require public water, sewer and storm water services. Uses permitted in SAG-5 are similar to uses allowed in the current and surrounding SAG-10.
- ❖ **G.31** – *Growth that does not place unreasonable burden on the school district to provide quality education.*
 - No comments were received from the Bigfork High School District and Bigfork School District therefore it appears the proposal would not adversely impact area school districts.
- ❖ **G.32** – *Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*
- ❖ **G.33** – *Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*

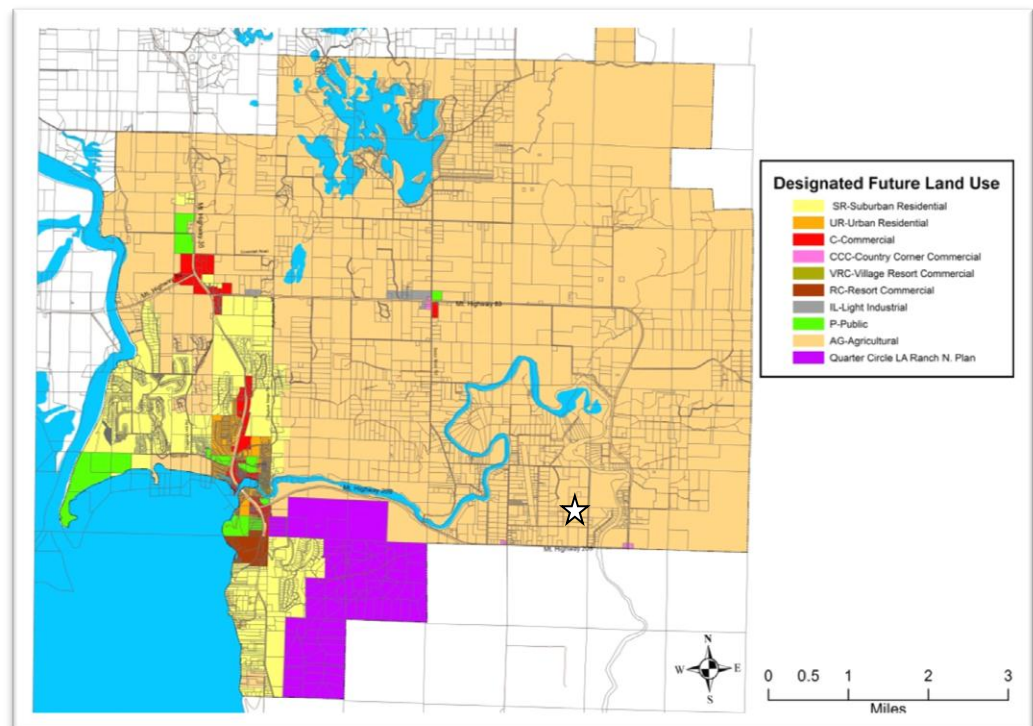
- This report contains discussion on the adequacy of emergency service in Section B.ii.1 and B.ii.2 below.
- ❖ **G.46** – *Honor the integrity and purpose of existing neighborhood plans respecting the time and effort of the community involvement that has taken place.*
 - This report contains discussion on the Bigfork Neighborhood Plan in the section below.

Finding #2: The proposed zoning map amendment from SAG-10 to SAG-5 generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request and even though the ‘Suburban Agriculture’ land use designation identified by the Designated Land Use Map is compatible with the proposed zoning, the map only portrays zoning which was established at the time the map was created and is not a future land use map.

2. Bigfork Neighborhood Plan

The Bigfork Neighborhood Plan (The Plan) serves as a localized planning tool for the community of Bigfork. The Plan was adopted as an addendum to the Growth Policy to provide more specific guidance on future development and land use decisions at the local level.

Figure 5: Subject property generally located in the area shown with a star



As shown in Figure 5 above, the Bigfork Neighborhood Plan “Future Land Use Map” designates the area in which the subject property is located as ‘Agricultural. According to the text of the plan states, “*Designated areas for agricultural production should be protected from the encroachment of*

residential and other more intensive development. Schools, fire stations, and parks are appropriate in this designation. Zoning designations in these areas range from Suburban Agriculture (SAG) 5 to Agriculture (AG) 80. This spectrum of zoning designations should be applied in a manner that implements the goals and policies of the plan in areas designated as AG on Map 10.”

Following is a consideration of goals and policies which appear to be applicable to the proposed zone change, to determine if the proposal complies with The Plan:

- ❖ **G.2** – *Support growth and development in the BPA in a way that protects the character of the area and its natural resources.*
 - The proposed zoning map amendment appears to protect the character of the area and its natural resource because it would allow for lot sizes and land uses similar to what exists in the adjacent SAG-5 zone.
- ❖ **G.6** – *Encourage and support residential development densities which are appropriate to existing and planned public facilities and services, which are absent of environmental constraints, and which enhance the character of the community.*
 - The proposed zoning map amendment is located in an area of the County that utilizes individual well and septic facilities but is within a rural fire district, is served by a public school district and the Flathead County sheriff, has access from a county road and appears absent of environmental constraints with the exception of dust generation and being located in the Wildland Urban Interface (WUI).
- ❖ **G.8** – *Encourage housing that maintains traditional development patterns while protecting property values and natural resources.*
 - The proposed zone change would encourage housing that maintains traditional development patterns because it would allow for lot sizes and land uses similar to what exists in the adjacent SAG-5 zone.
- **P.8.2** – *Encourage lot size and configuration in rural areas that promote open space and scenic views, while maintaining the character of these areas and supporting agricultural operations.*
 - The proposed zoning would allow for lot sizes that maintain the character of the area and support agricultural operations.
- **P.9.3** – *Transportation corridors should maintain the continued visual enjoyment of both the well-tended agricultural lands and the natural beauty of the area, and provide unimpeded traffic flow.*
 - The subject property is not currently used for nor has it been historically used for agricultural and the proposed zone change would likely maintain the natural beauty of the area and would likely not negatively impact traffic flow.

The Bigfork Neighborhood Plan provides guidance for the appropriate use of the spectrum of Agricultural zoning designations. The Plan states, *“In areas adjacent to Residential designations with efficient service provision, convenient access to public facilities, paved roads and no environmental constraints, SAG-5 zoning is an appropriate use and density.”* The property is located on a gravel county road but is located within a ½ mile of Montana Highway 209 a paved MDT maintained road. The property is located adjacent to SAG-5 zoning to the west and there is R-1 zoning a ¼ mile to the east. So while the subject property is not located directly adjacent to residential, the adjacent SAG-5 district is. The property is located in an area designated as WUI which would pose an environmental constraint. The Growth Policy defines the WUI as, *“The zone where structures and other human development meet and intermingle with undeveloped forests. This WUI zone is comprised of private and public lands and can pose risks to life, property, and infrastructure in associated communities if not mitigated.”* The property is heavily forested on the east and west side but the area around the existing house and center of the property is cleared.

The Ferndale Fire Department provided comments on this proposal. The Ferndale fire Department states, “After meeting with property owner and inspecting the site, the following conditions will apply. 1. A minimum of a 12 foot wide driveway to future structures for emergency vehicle to make access. 2. A minimum of 2 inch numbers be visible from the road, in both directions to the responding emergency vehicles and personnel. 3. Property owners incorporate DNRCs and Flathead County Fire Safe Program and make and keep property Fire defensible. If the above conditions are met, the project will have NO negative impact on the Ferndale Fire Department.” A zoning map amendment is not conditioned but the letter provided by the Fire Department and the review process makes the landowners aware. The Fire Department can follow-up with the landowner regarding this issue.

The Plan also states, *“SAG-10 zoning is appropriate for areas exhibiting the attributes of rural services and facilities, and where a transition between AG zones and residential areas is appropriate. Paved roads, adequate emergency service response times, minimal environmental constraints and the ability to fully create lots with building areas unaffected by environmental constraints are indicators of where this intensity of growth should be guided. Access to schools and basic commercial services should be within a reasonable driving distance, so as to limit vehicle miles traveled and traffic on rural roads not designed to accommodate growth.”* The subject property fits about equally into both the existing SAG-10 zoning and the proposed SAG-5 based on the guidance provided by the Plan.

The Bigfork Neighborhood Plan appears to generally support the proposed zoning map amendment by the Future Land Use Map designation of ‘Agricultural,’ and the goals, policies and texts of the plan.

Finding #3: The proposed zoning map amendment from SAG-10 to SAG-5 appears to comply with the Bigfork Neighborhood Plan Map Year 2020

because the proposed zoning classification is compatible with the future land use map designation of ‘Agricultural.’

Finding#4: The proposed zoning map amendment from SAG-10 to SAG-5 is generally supported by the text, goals and policies of The Plan because it would encourage housing that maintains traditional development patterns, is not currently used for nor has it been historically used for agricultural, it would allow for lot sizes and land uses similar to what exists in the adjacent SAG-5 zone and even though the property is located within the WUI the Ferndale Fire Department has stated, if conditions are met, the project will have NO negative impact on the Ferndale Fire Department and both parties are now aware of the situation creating appropriate mitigation given the limited scale of the proposed change.

ii. Whether the proposed map amendment is designed to:

1. Secure safety from fire and other dangers;

The subject property is located within the Ferndale Fire District and the nearest fire and emergency response center is located approximately 1.5 miles southwest of the property at the intersection Ferndale Drive and Highway 209. The Ferndale Fire Department would respond in the event of a fire or medical emergency.

The subject property is located in the Wildland Urban Interface (WUI) and designated as County Wide Priority Area. According to the Flathead County Growth Policy, *“The WUI is commonly described as the zone where structures and other human development meet and intermingle with undeveloped forests. This WUI zone is comprised of private and public lands and can pose risks to life, property, and infrastructure in associated communities if not mitigated.”* The property is heavily forested on the east and west side but the area around the existing house and center of the property is cleared of trees.

As stated previously, the Ferndale Fire Department provided comments on this proposal. The Ferndale Fire Department states, “After meeting with property owner and inspecting the site, the following conditions will apply. 1. A minimum of a 12 foot wide driveway to future structures for emergency vehicle to make access. 2. A minimum of 2 inch numbers be visible from the road, in both directions to the responding emergency vehicles and personnel. 3. Property owners incorporate DNRCs and Flathead County Fire Safe Program and make and keep property Fire defensible. If the above conditions are met, the project will have NO negative impact on the Ferndale Fire Department.”

The property is located on Fern Lane which provides the only access to the subject property. Fern Lane is a gravel two lane local County road within a 60 foot easement. Fern Lane appears adequate to provide ingress and egress for emergency services.

The subject property appears to be mapped as Zone X, areas determined to be inside the 0.2% annual chance floodplain on FEMA FIRM Panel 30029C2340G or inside the 500 year floodplain.

Finding #5: The proposed map amendment is not specifically designed to secure safety from fire because it would allow for 2 additional houses in the WUI, however, emergency services are available, other agency comments indicate defensible space can be used as mitigation, the combination of which lowers the risk to an acceptable level and the property is only 1.5 miles from the nearest fire station.

Finding #6: The proposed map amendment would secure safety from flood dangers because the property is mapped as Zone X inside the 0.2% annual chance floodplain, inside in the 500 year floodplain.

2. Promote public health, public safety, and general welfare;

The subject property is located within the Ferndale Fire District and the nearest fire and emergency response center is located approximately 1.5 miles southwest of the property at the intersection of Ferndale Drive and Highway 209. The Ferndale Fire Department would respond in the event of a fire or medical emergency and the Flathead County Sheriff's Department provides police services to the subject property.

SAG-5 zoning classification would allow for similar uses to what already exists in the area and what is allowed within in the current SAG-10 designation and neighboring SAG-5, and review will be conducted by other applicable agencies when splitting the lot or other development, therefore it is not anticipated to adversely impact public health, safety or general welfare.

Finding #7: The impact on public health, public safety and general welfare would not be negative because the property is served by the Ferndale Fire Department which is located 1.5 mile southwest of the subject property, the Flathead County Sheriff, future development would be similar to uses already in the area and anticipated by service providers and development will require review by appropriate agencies.

3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

It is anticipated that actual future development would include subdivision review, at which time specific impacts to transportation, water and sewer services, would be considered and mitigated as determined to be appropriate. However, this zone change request is also an opportunity to assess if the property and public infrastructure could handle impacts associated with the proposed zone change.

Primary access to the property is currently via Fern Lane. The applicant states that Fern Lane, "Has a very low volume of traffic and a 25 MPH speed limit." Fern Lane is a gravel two lane local County road within a 60 foot easement. Traffic counts taken by the Road and Bridge Department for Fern Lane in 2008 indicate 139 average daily trips (ADT) north of Highway 209.

At full build-out two additional single family homes could be constructed on the subject property. Using standard trip generation of 10 ADT per single family dwelling, the proposed zone change has the potential to generate an additional 20 ADT. The proposed zone change could contribute to an increase of 14.4% ADT on Fern Lane. Comments received from the Flathead County Road and Bridge Department stated, “At this point the County Road Department does not have any comments on this request.” It is anticipated that Fern Lane would be capable of handling the increased traffic because Fern Lane is a two lane county road with a low traffic volume and the Road and Bridge Department has no comment.

The applicant has stated that the subject property will be serviced by individual sewer and water systems. The applicant will be required to work with Flathead City-County Health Department to develop an on-site well and sewer system to meet the needs of any future development. Comments received from the Flathead City-County Health Department state, “The proposed development requires further sanitation review for the proposed division through the Sanitation in Subdivisions Act by Montana Department of Environmental Quality. On-site water and wastewater treatment and disposal are proposed. On-site systems would be reviewed for compliance with MTDEQ and Flathead County Sewage Treatment System Regulations. Solid waste and stormwater drainage must also be addressed through the Sanitation in Subdivision Act by the subdivision review process. Applicants will need to obtain the services of an environmental consultant for this process.”

The subject property is located within the Bigfork School District. Bigfork Elementary Schools have seen an increase of 8% in student enrollment over the last ten years and increase of 4% between 2012 and 2013. Bigfork High School has decreased 22% in student enrollment over the last ten years but saw an increase of 5% between 2012 and 2013. No comments were received from the Bigfork School District. It is anticipated that the impact on schools would be minimal as a result of the proposed zoning map amendment as it would only allow for two additional dwellings.

The zoning map amendment would change the current 10-acre minimum lot size to a smaller 5-acre minimum lot size, it is anticipated subsequent future development would require review and parkland would not be required at that time because the lots created would be greater than five gross acres in size. There are numerous parks, natural areas, and recreational opportunities within a short drive of the subject property. According to the applicant, “Directly across the county road from the property is a state owned parcel that provides recreational opportunities and open space ranging from hiking, snowshoeing, and fishing in Swan River.” The state land is approximately 92 acres and located along the Swan River.

Finding #8: The proposed zoning map amendment from SAG-10 to SAG-5 would facilitate the adequate provision of transportation because the existing infrastructure appears adequate to accommodate the change in zoning, the

County Road Department had no comments regarding this proposal and Fern Lane is a two lane county road with low traffic volumes capable of accommodating impacts of the proposed zoning map amendment.

Finding #9: The proposed zoning map amendment would not hinder the adequate provision of water, sewer, schools and parks because the applicant will utilize individual septic systems and wells which will require future review from the Montana Department of Environmental Quality and the Flathead City-County Health Department, the proposal may generate school children which would likely not impact schools and there are numerous parks, natural areas, and recreational opportunities in the vicinity including state lands across Fern Lane.

iii. In evaluating the proposed map amendment, consideration shall be given to:

1. The reasonable provision of adequate light and air;

The proposed zoning map amendment has the potential to increase development density on the subject property. The bulk and dimensional requirements for the proposed SAG-5 zone are the similar to the bulk and dimensional requirements for SAG-10 with the lone exception being minimum lot size. The SAG-5 zoning allows for double the density of the existing SAG-10 zoning.

Any new structures on additional lots created as a result of this proposed zone change would be required to meet the bulk, dimensional, permitted lot coverage and minimum lot area requirements of the SAG-5 zoning classification. The proposed SAG-5 zoning sets a maximum building height of 35 feet for all structures, the permitted lot coverage is 25% and the minimum lot area is 5 acres. The setback requirements in the proposed SAG-5 require a minimum of 20 feet for the front, rear, side and side-corner yards for principal structures and 20 feet for the front and side-corner yards and 5 feet for the side and rear yards for accessory structures. These bulk and dimensional requirements within the SAG-5 designation have been established to ensure a reasonable provision of light and air.

Finding #10: The proposed zone change from SAG-10 to SAG-5 would provide adequate light and air to the subject property because future development would be required to meet all bulk and dimensional requirements including setback, maximum height and lot coverage requirements within the proposed SAG-5 designation.

2. The effect on motorized and non-motorized transportation systems;

The property is located a half mile north of Highway 209 on Fern Lane which serves as primary access to the property. Fern Lane is classified as a local county road within a 60 foot easement and is currently a two lane gravel road. The Road and Bridge Department traffic counts from 2008 indicate 139 ADT north of Highway 209 on Fern Lane.

The applicant states that, “By adding two parcels to existing zoning increased traffic on Fern Lane and Highway 209 will be minimal.” At full build-out two additional single family homes could be constructed on the subject property.

Using a standard trip generation of 10 ADT per single family dwelling, the proposed zone change has the potential to generate an additional 20 ADT. The traffic generated by the proposed zone change could contribute to an increase of 14.4% ADT on Fern Lane. Comments received from the Flathead County Road and Bridge Department stated, “At this point the County Road Department does not have any comments on this request.” It is anticipated that because Fern Lane is a local county road with low traffic volumes and the Road and Bridge Department has no comment, the effects on motorized transportation would be minimal.

There is no existing bike/pedestrian facilities currently located along Fern Lane and Fern Lane is not identified as a future bike/pedestrian in the Flathead County Trails Plan.

Finding #11: It is anticipated that the proposed zoning map amendment would have minimal effect on the motorized and non-motorized transportation systems because Fern Lane is a local county road with low traffic volumes, the Road and Bridge Department has no comment and no bicycle/pedestrian trails is located on or is anticipated on Fern Lane.

3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

The town of Bigfork, which is not an incorporated municipality, is located approximately five miles west of the subject properties, and the proposed zoning map amendment appears compatible with urban growth of the Bigfork Planning Area (BPA) as described in the Bigfork Neighborhood Plan because the plan designates the location of the subject property as ‘Agricultural’ and specifically contemplates SAG-5 zoning as being an appropriate zoning implementation for the ‘Agricultural’ designation.

The incorporated City of Kalispell, which is the nearest city, is located approximately 20 miles northwest of the subject properties and the proposed zoning map amendment will not have bearing on urban growth of Kalispell.

Finding #12: The proposed zoning map amendment would be compatible with current urban growth in the Bigfork area because the proposed SAG-5 zoning is described as an appropriate zoning implementation for the ‘Agricultural’ designation in the Bigfork Neighborhood Plan.

Finding #13: The proposed zoning map amendment would not affect urban growth in the vicinity of Kalispell because the map amendment is located outside the area of influence of the City of Kalispell.

4. The character of the district(s) and its peculiar suitability for particular uses;

The character of the area surrounding the property is rural residential and heavily forested. The permitted and conditional uses found under the proposed SAG-5 zoning do not differ greatly to those listed under the existing SAG-10. Two uses are permitted in the SAG-10 designation that are not allowed within SAG-5, they include:

- *‘Dairy products processing, bottling, and distribution.’*
- *‘Ranch employee housing.’*

Two uses that are permitted in SAG-10 that are allowed with a conditional uses permit in SAG-5, they include:

- *‘Cellular tower.’*
- *‘Stable, riding academy, rodeo arena.’*

And two uses are allowed with a conditional use permit in SAG-5 that are not allowed in SAG-10, they include:

- *‘Recreational facility, high impact.’*
- *‘Recreational vehicle park.’*

The application states, “These 5 acres parcels will fit into the character of the area, which is rural housing on parcels from 1 to 20 acres. Ferndale is primarily timbered land, as these parcels are so it is not suitable for farming or large scale timber production.” The proposed zoning map amendment would allow for the future division of the subject properties, with the potential to create lots with a minimum size of 5 acres. The smaller lots would be consistent with the character of the immediate vicinity of the subject property. The properties directly to the west are zoned SAG-5 with a minimum lot size of 5 acres.

Lots surrounding the subject property vary in size from 0.7 acres all the way to 92 acres. Properties to the south and southwest range in size from 1.25 acres to 20.4 acres with the majority of lots around 5 acres in size. The property directly to the east is 92 acres, owned by the State of Montana and is heavily forested state land. And to the southeast the properties are 0.7 to 15.8 acres, with the majority of the lots around 1.0 acre. West and north of the subject property the lots are approximately 5.0 acres to 42.2 acres in size and most are between 5.0 and 6.0 acres.

Finding #14: The character of the district appears suitable for the proposed zoning map amendment because the uses permitted and conditionally permitted within the proposed SAG-5 zoning are similar to what is currently allowed and existing in the current SAG-10 and neighboring SAG-5 zoning and the minimum lot size allowed is similar to existing lots in the area.

5. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The adjacent properties are all heavily forested, and most are developed with single family residence and accessory structures. The property directly to the east is heavily forested state land that provides recreational opportunities. According to the applicant, “These parcels will not effect existing buildings and the most appropriate use of this land is rural housing which the SAG-5 zoning will ensure.” The Bigfork Neighborhood Plan identifies the subject property and vicinity as ‘Agricultural.’ Densities from 1 dwelling unit per 80 acres up to 1 dwelling unit per 5 acres would be appropriate in the ‘Agricultural’ land use designation. The proposed SAG-5 would be an

appropriate density that would maintain the rural character of the area.

The uses allowed within the SAG-5 zone are very similar to what is permitted and what currently exists in the surrounding SAG-10. The SAG-5 designation would allow for the same uses as what currently exists in the adjacent SAG-5 zone to the west. Allowing the requested zoning amendment on the subject property could conserve the value of buildings and encourage the most appropriate use of the land throughout the jurisdictional area.

Finding #15: This zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land because SAG-5 would be an appropriate density that would continue to maintain the rural character of the area and the SAG-5 designation allows for similar uses to the surrounding SAG-10 and SAG-5 designations.

iv. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The nearest incorporated city is the City of Kalispell which is located approximately 20 miles northwest of the subject property and therefore the proposed zoning map amendment will not have bearing on compatibility of zoning ordinances of nearby municipalities.

Finding #16: The proposed map amendment will not have bearing on compatibility of zoning ordinances of nearby municipalities because the closest incorporated city is located approximately 20 miles northwest of the subject property.

V. SUMMARY OF FINDINGS

1. The proposed zoning map amendment from SAG-10 to SAG-5 does not appear to constitute spot zoning because the adjacent property to the west is similarly zoned SAG-5 and this proposed zone change would allow for the same uses that are currently permitted and currently exist in the adjacent SAG-5.
2. The proposed zoning map amendment from SAG-10 to SAG-5 generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request and the 'Suburban Agriculture' land use designation identified by the Designated Land Use Map portrays only zoning which was established at the time the map was created and is not a future land use map.
3. The proposed zoning map amendment from SAG-10 to SAG-5 appears to comply with the Bigfork Neighborhood Plan Map Year 2020 because the proposed zoning classification is compatible with the future land use map designation of 'Agricultural.'
4. The proposed zoning map amendment from SAG-10 to SAG-5 is generally supported by the text, goals and policies of The Plan because it would encourage housing that maintains traditional development patterns, is not currently used for nor has it been historically used for agricultural, it would allow for lot sizes and land uses similar to what exists in the adjacent SAG-5 zone and even though the property is located within the WUI the Ferndale Fire Department has stated, if conditions are met, the project will have NO negative impact on the Ferndale Fire Department and both parties are now aware of

the situation creating appropriate mitigation given the limited scale of the proposed change.

5. The proposed map amendment is not specifically designed to secure safety from fire because it would allow for 2 additional houses in the WUI, however, emergency services are available, other agency comments indicate defensible space can be used as mitigation, the combination of which lowers the risk to an acceptable level and the property is only 1.5 miles from the nearest fire station.
6. The proposed map amendment would secure safety from flood dangers because the property is mapped as Zone X inside the 0.2% annual chance floodplain, inside in the 500 year floodplain.
7. The impact on public health, public safety and general welfare would not be negative because the property is served by the Ferndale Fire Department which is located 1.5 mile southwest of the subject property, the Flathead County Sheriff, future development would be similar to uses already in the area and anticipated by service providers and development will require review by appropriate agencies.
8. The proposed zoning map amendment from SAG-10 to SAG-5 would facilitate the adequate provision of transportation because the existing infrastructure appears adequate to accommodate the change in zoning, the County Road Department had no comments regarding this proposal and Fern Lane is a two lane county road with low traffic volumes capable of accommodating impacts of the proposed zoning map amendment.
9. The proposed zoning map amendment would not hinder the adequate provision of water, sewer, schools and parks because the applicant will utilize individual septic systems and wells which will require future review from the Montana Department of Environmental Quality and the Flathead City-County Health Department, the proposal may generate school children which would likely not impact schools and there are numerous parks, natural areas, and recreational opportunities in the vicinity including state lands across Fern Lane.
10. The proposed zone change from SAG-10 to SAG-5 would provide adequate light and air to the subject property because future development would be required to meet all bulk and dimensional requirements including setback, maximum height and lot coverage requirements within the proposed SAG-5 designation.
11. It is anticipated that the proposed zoning map amendment would have minimal effect on the motorized and non-motorized transportation systems because Fern Lane is a local county road with low traffic volumes, the Road and Bridge Department has no comment and no bicycle/pedestrian trails is located on or is anticipated on Fern Lane
12. The proposed zoning map amendment would be compatible with current urban growth in the Bigfork area because the proposed SAG-5 zoning is described as an appropriate zoning implementation for the 'Agricultural' designation in the Bigfork Neighborhood Plan.
13. The proposed zoning map amendment would not affect urban growth in the vicinity of Kalispell because the map amendment is located outside the area of influence of the City of Kalispell.

14. The character of the district appears suitable for the proposed zoning map amendment because the uses permitted and conditionally permitted within the proposed SAG-5 zoning are similar to what is currently allowed and existing in the current SAG-10 and neighboring SAG-5 zoning and the minimum lot size allowed is similar to existing lots in the area.
15. This zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land because SAG-5 would be an appropriate density that would continue to maintain the rural character of the area and the SAG-5 designation allows for similar uses to the surrounding SAG-10 and SAG-5 designations.
16. The proposed map amendment will not have bearing on compatibility of zoning ordinances of nearby municipalities because the closest incorporated city is located approximately 20 miles northwest of the subject property.

VI. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with most the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: EKM